



STATE OF ARIZONA

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May 4, 2006

The Honorable Ken Bennett
President
Arizona State Senate
1700 West Washington Street
Senate Office Building
Phoenix, Arizona 85007

Re: Senate Bill 1072: civil liability; presumptions; police tools


Dear President Bennett:

Today I signed into law Senate Bill 1072, related to civil liability presumptions afforded to crime victims, police officers and the manufacturers of police tools.

I did so despite a drafting error in the bill that renders it susceptible to a broader interpretation than the proponents of this bill intended. As currently drafted, the presumption of reasonableness for the use of force is granted to victims (and to police officers and their employers) seeking to apprehend or prevent the escape of any felon, regardless of whether the crimes committed were violent in nature. The use of force – expressly including lethal force – is not always presumptively reasonable when dealing with non-violent criminals, and the proponents of this bill have promised to seek its prompt amendment to make clear their intent that it apply only with respect to incidents involving violent criminals.

With this promise and understanding, I have signed Senate Bill 1072

Yours very truly,


Janet Napolitano
Governor

JN:TAN/jm

cc: Hon. Jim Weiers
Hon. Dean Martin

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

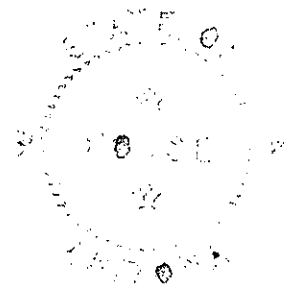
CHAPTER 254

SENATE BILL 1072

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARTICLE 12, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-716; RELATING TO CIVIL LIABILITY ASSOCIATED WITH CRIMINAL ACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 6, article 12, Arizona Revised Statutes,
3 is amended by adding section 12-716, to read:

4 12-716. Injury during criminal acts; civil actions;
5 presumptions; definition

6 A. IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT A
7 PLAINTIFF IS HARMED WHILE THE PLAINTIFF IS ATTEMPTING TO COMMIT, COMMITTING
8 OR FLEEING AFTER HAVING COMMITTED OR ATTEMPTED TO COMMIT A FELONY CRIMINAL
9 ACT, THE FOLLOWING PRESUMPTIONS APPLY TO ANY CIVIL LIABILITY ACTION OR CLAIM:

10 1. A VICTIM OR PEACE OFFICER IS PRESUMED TO BE ACTING REASONABLY IF
11 THE VICTIM OR PEACE OFFICER THREATENS TO USE OR USES PHYSICAL FORCE OR DEADLY
12 PHYSICAL FORCE TO EITHER:

13 (a) PROTECT HIMSELF AGAINST ANOTHER PERSON'S USE OR ATTEMPTED USE OF
14 PHYSICAL FORCE OR DEADLY PHYSICAL FORCE.

15 (b) EFFECT AN ARREST OR PREVENT OR ASSIST IN PREVENTING A PLAINTIFF'S
16 ESCAPE.

17 2. THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE IS PRESUMED TO
18 HAVE REASONABLY HIRED AND TRAINED ITS PEACE OFFICERS TO USE PHYSICAL FORCE OR
19 DEADLY PHYSICAL FORCE IF A PEACE OFFICER THREATENS TO USE OR USES PHYSICAL
20 FORCE OR DEADLY PHYSICAL FORCE TO EITHER:

21 (a) PROTECT HIMSELF AGAINST ANOTHER PERSON'S USE OR ATTEMPTED USE OF
22 PHYSICAL FORCE OR DEADLY PHYSICAL FORCE.

23 (b) EFFECT AN ARREST OR PREVENT OR ASSIST IN PREVENTING A PLAINTIFF'S
24 ESCAPE.

25 3. THE POLICE TOOL PRODUCT THAT CAUSED THE PHYSICAL HARM IS PRESUMED
26 NOT TO BE DEFECTIVE AND THE MANUFACTURER OF POLICE TOOLS IS PRESUMED NOT TO
27 BE NEGLIGENT IF, BEFORE THE SALE BY THE MANUFACTURER, THE PRODUCT EITHER:

28 (a) CONFORMS WITH THE GENERALLY RECOGNIZED STATE OF THE ART APPLICABLE
29 TO THE SAFETY OF THE PRODUCT AT THE TIME THE PRODUCT WAS DESIGNED,
30 MANUFACTURED, PACKAGED AND LABELED.

31 (b) COMPLIES WITH ANY APPLICABLE CODE, STANDARD, REGULATION OR
32 SPECIFICATION THAT IS ESTABLISHED, ADOPTED, PROMULGATED OR APPROVED BY THE
33 UNITED STATES OR THIS STATE OR ANY AGENCY OF THE UNITED STATES OR THIS STATE.

34 B. FOR THE PURPOSES OF THIS SECTION, "POLICE TOOL PRODUCT" MEANS ANY
35 WEAPON, SAFETY EQUIPMENT OR PRODUCT THAT IS USED BY LAW ENFORCEMENT.

APPROVED BY THE GOVERNOR MAY 4, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2006.